

MR. AND MRS. HERMAN FLOYD WILLIAMS, AND MR. AND
MRS. W. C. SEGERS

JANUARY 31, 1956.—Committed to the Committee of the Whole House and
ordered to be printed

Mr. FORRESTER, from the Committee on the Judiciary, submitted
the following

REPORT

[To accompany H. R. 6137]

The Committee on the Judiciary, to whom was referred the bill (H. R. 6137) for the relief of Mr. and Mrs. Herman Floyd Williams, and Mr. and Mrs. W. C. Segers, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 5, after the word "to" insert "Mr. and Mrs."

Page 1, line 6, strike out "12,500, to Bettie J. Williams the sum of \$12,500, to Alma G. Segars the sum of \$2,500, and".

Page 1, line 7, after the word "to" insert "Mr. and Mrs." and change "Segars" to "Segers".

Page 1, line 8, strike out the figures "2,500", and insert in lieu thereof "5,000".

Amend the title so as to read:

A bill for the relief of Mr. and Mrs. Herman Floyd Williams, and Mr. and Mrs. W. C. Segers.

This bill, as drawn, would pay to Herman Floyd Williams the sum of \$12,500, to Bettie J. Williams the sum of \$12,500, to Alma G. Segars the sum of \$2,500, and to W. C. Segars the sum of \$2,500, in settlement of all claims on account of personal injuries, death, and property damage caused by the crash of a United States Air Force plane in the city of Marianna, Fla., July 22, 1952.

The record shows that Alma G. Segars and W. C. Segars are husband and wife, and that Herman Floyd Williams and Bettie J. Williams are husband and wife.

On July 22, 1952, a jet aircraft exploded and disintegrated in or near the yard of Mr. and Mrs. Williams, thereby burning to death Peggy

Diane Williams, 5 years of age, and Rufus Floyd Williams, 2 years of age, both the children of Mr. and Mrs. Williams. The wife and mother Mrs. Bettie J. Williams, suffered burns on her arms and right leg, and her hair was scorched and burned. Mrs. Williams was hospitalized for about 30 hours following the incident, and her burns healed without scars. Hospital bills were incurred by the Williamses in the sum of \$204.30 on account of the 2 infant children who were burned to such extent that they died and funeral expenses for the 2 children amounted \$440.42. Additionally, the Williams sustained a personal property loss (furniture) in the amount of \$418.69.

Alma G. Segars was next door to the home of the Williamses at the time this aircraft exploded and, hearing noise, she rushed out of the home she was in at the time that another explosion occurred, being occasioned by the fuel tank of the plane catching on fire, and she was burned so that the color pattern of her dress was transferred to her body in that the burning reflected the dark and light spots of the coloration. She received burns about her arms and her back. At the time that Mrs. Segars received those injuries she was working with the Florida State Hospital and was receiving \$110 monthly, plus room, board, and laundry. As a result of that incident, she became unnerved and has been unable to work since. The Department of the Air Force, in its report of November 16, 1955, says that in February 1953, Mrs. Segars was examined by Government physicians, and at that time there were scars remaining on her left and right arms, the scar on the right arm being most obvious and somewhat livid, and at that time, which was 6 months and 10 days after the incident, she still exhibited mental and emotional disturbances. That report also says that Mrs. Segars' medical and hospital expenses amounted to \$301.30.

The evidence in this case shows that four young men who were giving their service to their country died in this incident, and that nothing that they did contributed to this incident. This subcommittee takes judicial cognizance of the fact that the dependents of these young men did not and could not receive more than \$10,000, irrespective of what their life expectancies were and the losses actually sustained by those dependents. This subcommittee also knows that the Federal courts held that under the United States Supreme Court decision in the case of *Dalehite v. The United States*, the claimants herein have no valid claim against the United States Government. Consequently, what is done in this case so far as payments to any of the claimants are concerned must be in the manner of a gratuity.

This subcommittee realizes that there is no legal basis for any claims against the Government, but interprets the Government's position to be at the present time a compassionate and benevolent position. The infant children were of such tender age that they were incapable of rendering service to their parents, but, had they lived, this subcommittee would assume that they would in time have been of service. These parents suffered severe shock, particularly the mother, when she watched her children burn to death. So far as the Williamses are concerned, it is recommended that the bill be amended by striking out the language "to Herman Floyd Williams the sum of \$12,500, to Bettie J. Williams the sum of \$12,500", as stated in lines 5 and 6 of said bill, and that the following language be substituted therefor, to wit: "to Mr. and Mrs. Herman Floyd Williams the sum of \$16,097.26,"

this recommendation being made to the end that the said Williamses shall be paid the medical expenses and funeral expenses of their infant children amounting to \$644.72, plus \$33.85 hospital bills incurred by Mrs. Williams, plus \$418.69 personal property damage incurred by the Williamses, and so that \$15,000 shall be paid to Mr. and Mrs. Herman Floyd Williams, jointly and severally, and when so amended that this bill be reported favorably so far as Mr. and Mrs. Herman Floyd Williams are concerned.

This subcommittee finds that the injuries sustained by Alma G. Segars are undoubtedly permanent to a large degree. Apparently, she will carry the scar on her arm, which was described in the Department of the Air Force report as most obvious and somewhat livid, to her grave. The evidence demonstrates that Mrs. Segars undoubtedly suffered some mental and emotional disturbances, which existed for a considerable time after the incident, and that she did sustain the loss of her job for many months. Insofar as the record is concerned, Mrs. Segars is emotionally and mentally disturbed. Additionally, her medical and hospital expenses amounted to \$301.30. This subcommittee recommends that the amount provided for Alma G. Segars and her husband, W. C. Segars, aggregating \$5,000, be paid, but that the language occurring in said bill, to wit: "to Alma G. Segars the sum of \$2,500 and to W. C. Segars the sum of \$2,500," appearing on lines 6, 7, and 8, be stricken, and that the following language be substituted therefor, to wit: "to Mr. and Mrs. W. C. Segars, the sum of \$5,000." When the said bill is amended as provided above, it is recommended that the said bill be reported favorably as amended.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, November 16, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on H. R. 6137, 84th Congress, a bill for the relief of Herman Floyd Williams, Bettie J. Williams, Alma G. Segars, and W. C. Segars.

The purpose of the bill is to authorize and direct the payment of \$12,500 to Herman Floyd Williams, \$12,500 to Bettie J. Williams, \$2,500 to Alma G. Segars, and \$2,500 to W. C. Segars in full settlement of all claims of such persons against the United States on account of personal injuries, death, and property damage caused by the crash of a United States Air Force aircraft in the city of Marianna, Fla., on July 22, 1952.

On said date, a United States Air Force B-47 type aircraft, which had taken off from MacDill Air Force Base on a training mission, disintegrated in flight while at an altitude of 7,000 feet. The cause of the disintegration could not be determined.

As a result of the disintegration two children of Herman Floyd and Bettie J. Williams, Peggy Diane Williams (age 5) and Rufus Floyd Williams (age 2) were burned by flaming fuel and expired about 2 hours later. The medical and hospital expenses for the deceased children amounted to \$204.30 and their funeral expenses were \$440.42.

Bettie J. Williams suffered burns on the arms and right leg and her hair was scorched and burned. Her burns were first degree with an occasional area of second-degree burns. She was hospitalized for about 30 hours following the accident and her burns healed without scar. Her medical and hospital expenses amounted to \$33.85. In February 1953, she was examined by Government physicians who found no evidence of physical disability from trauma associated with the aircraft accident although she was still emotionally disturbed.

Alma G. Segars suffered first- and second-degree burns involving the upper back and both arms and was hospitalized for 15 days. Her hospital stay was extended for this period due to apprehension and nervousness. An examination by

Government physicians in February 1953 showed scars remaining on her left and right arms. The scar on the right arm is most obvious and somewhat livid. The scars cause no physical disability or limitation of activities, except for their cosmetic result. At that time, she still exhibited mental and emotional disturbances which could not be measured objectively with any degree of certainty. Her medical and hospital expenses amounted to \$301.30.

Neither Mr. Williams nor Mr. Segers suffered any personal injuries as a result of the accident. Mr. Williams does allege that he sustained a personal property loss in the amount of \$418.69.

In November 1952, Mr. and Mrs. Williams brought suit against the United States under the Federal Tort Claims Act in the United States District Court for the Northern District of Florida in the amount of \$157,918.69 for the death of their two children, the personal injury suffered by Mrs. Williams, loss of consortium and property damage sustained by Mr. Williams, and for medical, hospital, and funeral expenses. Mr. and Mrs. Segers also brought suit in the same Federal court and claimed damages for \$30,000 for personal injury sustained by Mrs. Segers, for loss of consortium by Mr. Segers, and for medical and hospital expenses. The two cases were combined for trial.

The United States District Court in a decision entitled *Williams et al v. United States* (115 F. Supp. 386), found against the plaintiffs. The United States Court of Appeals for the Fifth Circuit in 218 F. 2d 473 confirmed the decision of the district court on the grounds that the plaintiffs failed to establish negligence on the part of any officer or employee of the United States so as to impose liability on the United States under the Federal Tort Claims Act.

The effect of the proposed private bill is to give a remedy to parties injured as a result of activities of the Air Force when the courts have determined that the United States is not liable under the Federal Tort Claims Act. The Department of the Air Force has no objection to enactment of H. R. 6137 recompensing the claimants in amounts considered by the Congress to be just and reasonable.

It should be noted that the claims filed with the Air Force show the name of the plaintiff as "Segers," whereas in H. R. 6137 it is "Segars." This office has no information as to which spelling is correct.

The Bureau of the Budget advises that it does not object to the submission of this report.

Sincerely yours,

DAVID S. SMITH,
Assistant Secretary of the Air Force.

January 17: Congressman Fascell called and asked that you be given the following information:

Chapter 768.03, Florida Statute, which deals with parties who may present actions for the death of a minor child and that statute provides:

"Whenever the death of any minor child shall be caused * * * the father of such minor child, or if the father be not living, the mother may maintain an action against such individual * * * and may recover not only for the loss of services of such minor child, but in addition thereto such sum for the mental pain and suffering of the parent, or both parents, if they survive."

STATEMENT OF FACTS

Herman Floyd Williams and his wife, Bettie J. Williams v. United States of America

On July 22, 1952, about 7:25 a. m., a jet aircraft was heard over the city of Marianna, Fla. It appears the plane was in difficulty and, according to witnesses, it was emitting a rumbling sound. The plane was seen in the air and had fire and smoke streaming from its right wing. In a matter of seconds after the plane was seen in this condition, a terrific explosion was felt. The plane disintegrated over the city of Marianna. Following the explosion, falling parts of the plane were subsequently located over an area of approximately 4 square miles.

The explosion caused the wings, engines, and other parts to shear themselves from the fuselage of the plane. The fuselage did not catch fire. All four of the occupants in the plane were killed either by the force of the explosion or upon the fuselage crashing to the ground.

On the morning of July 22, 1952, Bettie J. Williams, the wife of Herman Floyd Williams, was working in the yard of their home attending to some rose bushes.

Her husband had left home to attend Chipola Junior College where he was receiving schooling under the GI benefit bill. Her home was located approximately 300 feet from Jackson Hospital, a hospital operated and maintained for the benefit of the people of Jackson County, Fla.

With the explosion of the plane, Mrs. Williams became frightened and, according to her statement, thought the world was coming to an end. She ran into her home to gather up her 3 children, 2 boys and 1 girl. One of the boys was in the house but she could not find the other two. She ran out the front of the house with 1 child to look for the other 2 children. About the time she got out of the house, there was a terrific explosion, the force of which knocked her and the child with her down. According to her description, the whole area appeared to be covered with flame. She immediately got up and began looking for her other two children. She was stopped by Reverend Fort from going back into her home to see if she could find them. She then began to wander around looking for them.

With the explosion and flame on the ground, Mr. John H. Williams, who lived a short distance from the Herman Floyd Williamses, began looking around for his children who frequently played with the Herman Floyd Williams children. He ran toward the Herman Floyd Williams home and, according to his testimony before the trial court, the whole area was covered in flame as a result of the explosion in the backyard of the Williams home. He heard a child crying and went into the flame, found one child and brought it out and, leaving it with his son to hold, he again entered the flame to see if there were others there. He found another child and brought it out. These were the two children of Herman Floyd Williams and his wife, Bettie J. Williams. He reentered the fire to see whether or not his child was there and, not finding the child, he returned to his son, and with his son carried the Herman Floyd Williams children to the Jackson Hospital. According to his testimony, the children were burned about to a crisp, their skin was parched, and their clothing was burned off.

In the meantime, Mrs. Bettie J. Williams, wandering around looking for her children, came to the home of John H. Williams and asked Mrs. John H. Williams if they had seen Rufus Floyd and Peggie Diane. She was told to go to the hospital immediately. She ran to the hospital and, upon entering the emergency room, saw her two children, who had been burned so horribly, being given treatment by the hospital staff. She immediately fainted.

Approximately 2 hours later, even though the staff had rendered every possible assistance, the two children died. According to the testimony of the doctors, they were so severely burned that it was impossible to give them transfusions intravenously.

Mrs. Williams was in such a condition, emotionally and otherwise, that she remained in the hospital until just before the funeral for the children.

In addition to the loss of their two children, this young couple lost all of their household furnishings and fixtures as a result of the explosion and fire that occurred on the ground, where a part, presumably the fuel tank, fell and exploded. The amount of damages to household furnishings and equipment sustained, according to appraisals made, amounted to \$418.69. This appraisal was arrived at by taking the value of the items prior to the fire and comparing that to the value after the fire. The Williamses did not own their home, but were renting the same from Rev. C. H. Fort.

In addition to the loss incurred, there was a further expense relative to Rufus Floyd Williams for professional services of doctors, Jackson Hospital bill, Maddox Funeral Home, and for clothes for the burial of the child in the amount of \$336.38. For the child, Peggie Diane Williams, the total amount of medical, hospital, funeral, and clothing expenses for the burial was \$333.34.

Subsequent to the death of her children, due to her physical and emotional condition, it was necessary for Mrs. Williams to undergo an operation, a result of which is that she will not be able to have other children. The expense for medical and hospitalization for Mrs. Williams was \$33.85. Further additional expense was incurred by Mrs. Williams as the Air Force requested an opportunity to examine her and the right of consultation with her physician. Also her physician appeared before the court and testified and consulted with her attorneys, for which services he submitted a statement for total fee of \$50.

It is to be pointed out that in this case, the two children were not in the street at the time of the explosion but rather in their own backyard playing. Even their pet dog and cat, with whom they were playing, were burned to death as a result of the explosion.

The Williamses were without means other than a small salary Mr. Williams received in addition to his GI benefits. They were and have been without means

to pay any of the expenses incurred as a result of this tragic occurrence. At no time has the Air Force, or its representative, or the Government's attorney offered any amount in settlement of their losses, other than to advise them that the Government would pay their actual expenses incurred if they chose to accept that in settlement but that nothing would be paid for the loss of the children except the hospital and funeral expenses.

Immediately after the explosion occurred Air Force authorities descended upon the city of Marianna en masse. They requested that all parts and fragments of the plane, which were scattered over a vast area, be brought in so the cause of the accident could be determined. The fuselage containing the bodies of the four occupants was located approximately 100 yards from the Herman Floyd Williams home. The general public were advised Air Force authorities, together with authorities from all investigating agencies relative to aircraft accidents, were present. No public announcement was made as to the cause of the fire, explosion, or disintegration of the plane.

Suit was instituted by the Williamses in the United States District Court in and for the Northern District of Florida, under the Federal Tort Claims Act. Interrogatories were propounded as to whether or not the plane had been under the care, inspection, and maintenance of the Air Force prior to the commencement of the flight, and if, in flight, it was under the care, custody, and control of the officers of the Air Force within their scope of authority. The Government answered these interrogatories in the affirmative. In answer to the complaint the Government further stated that "despite extensive investigation on behalf of the defendant, (the cause) is unknown, and, that, therefore, defendant alleges its (plane) disintegration and crash to have been the result of an unforeseeable and indeterminable malfunctioning of said airplane; an accident of completely unknown cause, source, and origin." The Government offered no testimony whatsoever in this case to deny liability for any cause or to controvert any of the damages or negligence.

After the issues were made but before the trial of this case, the United States Supreme Court decided the case of *Dalehite v. United States* (the Texas City case). The district court, in its memorandum decision, took the position that as this airplane was from McDill Air Force Base, Tampa, Fla., where experimental operations were conducted by the Air Force, and as experimental operations were Cabinet decisions and did not come within the operation of the tort claim, therefore the court had no jurisdiction in this case as a result of the Dalehite case. It is to be pointed out that there was not one scintilla of evidence in this case that the plane came from McDill Field, that it was on an experimental operation, or any other factors that would bring it within the scope of the Dalehite decision.

The trial court further stated in its memorandum opinion that if it had jurisdiction to handle the case, the case would certainly come within the doctrine of *res ipsa loquitur* as defined by the laws of the State of Florida, but since the Dalehite case removed the case from its jurisdiction, the court, according to its opinion, gave judgment to the Government. The case was appealed in the Circuit Court of Appeals for the Fifth Circuit and in the opinion rendered by that court, it held in substance that the trial court was in error in finding that the flight originated at McDill, that the plane was on experimental flight, and that the Dalehite case prohibited the trial court from taking jurisdiction. It further held that the defendants had failed to prove their case for the reason they had not shown the cause of fire and explosion. There was no earthly way for the defendants to prove the cause of the fire when the Government, with all of its funds and resources and after extensive investigation, has been unable to determine the cause of the fire and explosion.

This mother and father have not but one recourse and that is by way of relief direct from Congress for the extreme loss they have sustained.

The Congress now has the responsibility of determining what value shall be placed on the loss these two parties have sustained through absolutely no fault of their own. They have suffered an irreparable injury. They can have no more children to replace those whose lives were burned away through the malfunctioning of the Government's airplane while playing in what is supposed to be the safest place in the world, their own backyard. Certainly, a Government that has been so liberal in all other things will look with favor upon one of its service veterans and his wife and will be liberal in its attempt to overcome the loss they have sustained. Nothing will ever erase from the mind of this mother the last sight she had of her children burned to a crisp, lying in the emergency room of the hospital, crying with pain.

This is not an ordinary compensation case but one in which the Government should show its generosity.

STATEMENT OF FACTS

Alma G. Segers and her husband, W. C. Segers v. United States of America

On July 22, 1952, about 7:25 a. m., a jet aircraft was heard over the city of Marianna, Fla. It appears the plane was in difficulty and, according to witnesses, it was emitting a rumbling sound. The plane was seen in the air and had fire and smoke streaming from its right wing. In a matter of seconds after the plane was seen in this condition, a terrific explosion was felt. The plane disintegrated over the city of Marianna. Following the explosion, falling parts of the plane were subsequently located over an area of approximately 4 square miles.

The explosion caused the wings, engines, and other parts to shear themselves from the fuselage of the plane. The fuselage did not catch fire. All four of the occupants in the plane were killed either by the force of the explosion or upon the fuselage crashing to the ground.

On the morning of July 22, 1952, Alma G. Segers was eating breakfast at the home of Reverend Fort, whose home was next door to the home occupied by Herman Floyd Williams and his wife. Mrs. Segers had spent the night at Jackson Hospital sitting up with her son, who was confined in the hospital. The hospital was approximately 300 feet from the home of Reverend Fort. At about 7:25 o'clock, the Forts and Mrs. Segers had finished breakfast and were sitting around the breakfast table exchanging the pleasantries of the day when there was a terrific explosion that shook the house, rattled the dishes, and was of such force that the Forts and Mrs. Segers rushed from the house fearing that it might be an earthquake or other catastrophe. The thought of an earthquake came to mind as there had recently been a very severe earthquake in California, the details of which had filled the papers and news broadcasts.

About the time Mrs. Segers got out of the house there was another explosion on the ground caused by the fuel tanks of the plane which fell between the Fort and Williams' home. The whole area was covered by fire and intense smoke. The searing flash, fire, flame, and heat wave that followed the explosion inflicted severe burns on Mrs. Segers' body. The burns were such that the color pattern of her dress was transferred to her body in that the burned area reflected the dark and light spots of the coloration. She received burns about her arms and back, mostly on her back. Her hair was singed.

Mrs. Segers was rushed to the hospital where she received first-aid treatment and was admitted to the hospital. She suffered from extreme hysteria in addition to her burns.

As a result of the explosion she became extremely nervous and was unable to continue her employment at the Florida State Hospital at Chattahoochee, Fla., where she had been gainfully employed approximately 6 weeks prior to the accident.

Prior to Mrs. Segers entering upon her employment at the Florida State Hospital at Chattahoochee, Fla., she had received a physical examination and as a result of that examination was found to be in good physical condition and of such emotions as to make her qualified to work as an employee at this State institution for the insane. Subsequent to the explosion, she was unable, because of her nervous and emotional condition as a result of the accident, to hold employment at the Florida State Hospital. Her nervous condition is such that on those occasions when jet planes fly over, she enters a state of hysterics. This condition continues to exist.

Prior to the accident Mrs. Segers was receiving \$116 per month plus room, board, and laundry, if desired, by the State of Florida for her employment. She also received limited medical attention. As a result of the accident Mrs. Segers incurred a bill for the sum of \$195.30 at Jackson Hospital and a bill for \$173 as expenses for services of her physician, Dr. Jabe A. Breland.

This lady was gainfully employed and assisting her husband in meeting the expenses of their family and home. As a result of this accident, over which she and her husband had absolutely no control, she has lost her ability to contribute further to the financial well-being of herself and her family. This condition was brought about by the malfunctioning of a Government airplane. Certainly this Government, which seeks to better conditions of all of its citizens and to increase opportunity for everyone, will recognize the damage that has been done to this lady and her family and compensate her for the loss she has sustained. She has a life expectancy of approximately 27 years, and presumably could have continued her employment for many years before she would have retired at part pay. As a result of the Government's operation of this plane, she not only sustained great pain and suffering but has lost her employment and such retirement benefits as she would have been entitled to as an employee of the State of Florida.

